

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

18 Civ. 8175 (ER)

– against –

ECF CASE

BARRY C. HONIG, ROBERT LADD,
ELLIOT MAZA, BRIAN KELLER,
JOHN H. FORD, GRQ CONSULTANTS, INC.,
and HS CONTRARIAN INVESTMENTS, LLC,

Defendants.
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**DECLARATION OF ADAM C. FORD IN SUPPORT OF DEFENDANT ROBERT
LADD’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Adam C. Ford of Ford O’Brien Landy LLP, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney duly licensed to practice law in the State of New York. I am a partner with the law firm, Ford O’Brien Landy LLP, counsel for Defendant Robert Ladd in the above-captioned matter.
2. I respectfully submit this declaration in support of Defendant Robert Ladd’s Motion for Summary Judgment. I have personal knowledge of the facts below and, if called as a witness, I could and would testify competently thereto.
3. Attached hereto as **Exhibit 1** is a true and correct copy of an excerpt of the deposition transcript of Barry Honig, dated February 13, 2020.
4. Attached hereto as **Exhibit 2** is a true and correct copy of an excerpt of the deposition transcript of Drew Ciccarelli, dated October 23, 2019.

5. Attached hereto as **Exhibit 3** is a true and correct copy of an excerpt of the deposition transcript of Michael Onghai, dated March 5, 2020.
6. Attached hereto as **Exhibit 4** is a true and correct copy of an excerpt of the deposition transcript of Hugh Holmes, dated January 28, 2020.
7. Attached hereto as **Exhibit 5** is a true and correct copy of an excerpt of the deposition transcript of Joshua Silverman, dated February 12, 2020.
8. Attached hereto as **Exhibit 6** is a true and correct copy of an excerpt of the deposition transcript of Avital Perlman, dated June 15, 2022.
9. Attached hereto as **Exhibit 7** is a true and correct copy of an excerpt of the deposition transcript of Jay Kaplowitz, dated June 14, 2022.
10. Attached hereto as **Exhibit 8** is a true and correct copy of an excerpt of the deposition transcript of Arthur Marcus, dated June 21, 2022.
11. Attached hereto as **Exhibit 9** is a true and correct copy of an excerpt of the deposition transcript of Harvey Kesner, dated August 8, 2022.
12. Attached hereto as **Exhibit 10** is a true and correct copy of an excerpt of the deposition transcript of Joan Wu, dated June 22, 2022.
13. Attached hereto as **Exhibit 11** is a true and correct copy of an excerpt of the deposition transcript of Tara Guarneri-Ferrara, dated July 12, 2022.
14. Attached hereto as **Exhibit 12** is a true and correct copy of a Form 8-K filed with the SEC by MGT on October 9, 2015. This document is available to the public via the SEC's website.
15. Attached hereto as **Exhibit 13** is a true and correct copy of a Form S-1 filed with the SEC by MGT on November 6, 2015. This document is available to the public via the SEC's

website.

16. Attached hereto as **Exhibit 14** is a true and correct copy of a Form 8-K filed with the SEC by MGT on May 9, 2016. This document is available to the public via the SEC's website.
17. Attached hereto as **Exhibit 15** is a true and correct copy of an article entitled *Stock BEAST Report – MGT Capital Investments, Inc.* The article was published on the Stock Beast website and is available to the public via the Stock Beast website. This article was cited by the SEC at paragraph 146 of its Amended Complaint (Dkt. 105).
18. Attached hereto as **Exhibit 16** is a true and correct copy of excerpts of a Form 8-K filed with the SEC by Intel Corporation on August 19, 2010. This document is available to the public via the SEC's website.
19. Attached hereto as **Exhibit 17** is a true and correct copy of an article dated November 12, 2012, by Nadine DeNinno of the IBTimes titled, "*John McAfee, Anti-Virus Creator, Wanted For Murder Of Gregory Faull.*" When discussing his McAfee's background, the article states, "McAfee sold his company to Intel in 2010 for nearly \$7.7 billion and had been living in Belize where he reportedly engaged in 'intensive use of psychosis-inducing hallucinogens.'" "
20. Attached hereto as **Exhibit 18** is a true and correct copy of an article dated September 9, 2015 by Nick Winchester of Newsweek titled, "*Antivirus Pioneer John McAfee is Running for U.S. President.*" In the article it states, "After escaping an abusive upbringing, he went on to found McAfee Associates, the antivirus software technology company that he sold to Intel in 2010 for \$7.68 billion."

21. Attached hereto as **Exhibit 19** is a true and correct copy of an article dated September 14, 2015, by Laurie Segall of CNN Business titled, “*Why John McAfee believes he should be president.*” The article states, “McAfee sold his company to Intel in 2010.”
22. Attached hereto as **Exhibit 20** is a true and correct copy of a Form 10-Q filed by MGT on May 23, 2016.
23. Attached hereto as **Exhibit 21** is a true and correct copy of a Form 8-K filed with the SEC by McAfee Associates, Inc. on January 11, 1994.
24. Attached hereto as **Exhibit 22** is a true and correct copy of excerpts of Amendment No. 1 to a Form S-4 filed with the SEC by McAfee Associates, Inc. on July 18, 1995.
25. Attached hereto as **Exhibit 23** is a true and correct copy of a table prepared by Yahoo! Finance showing daily opening, closing, high, and low prices and daily volume for the stock of MGT Capital Investments, Inc. from May 2, 2016, to September 7, 2018. This information is available to the public via Yahoo! Finance’s website.
26. Attached hereto as **Exhibit 24** is a true and correct copy of an email dated October 12, 2012, from Robert Ladd to Jay Kaplowitz and Harvey Kesner. Attached to the email is a letter to Robert Ladd from the law firm, Sichenzia Ross Friedman Ference LLP, dated October 11, 2012, which requests Robert Ladd’s consent to the firm’s representation of Barry Honig and other investors.
27. Attached hereto as **Exhibit 25** is a true and correct copy of an email dated November 29, 2015, from Robert Ladd to Barry Honig. The email is regarding whether Barry Honig invested individually or part of a group, to which he writes, “I am not part of a group. I invested individually.”

28. Attached hereto as **Exhibit 26** is a true and correct copy of an email dated October 18, 2012, from Arthur Marcus to Robert Ladd and Robert Traversa. The email is regarding the allocation between various investors, as well as whether the investors are acting as a group.
29. Attached hereto as **Exhibit 27** is a true and correct copy of a press release from MGT dated May 9, 2016. In the release, MGT announces that it has entered into an asset purchase agreement to acquire certain technology and assets from D-Vasive, Inc., and that John McAfee will be appointed Executive Chairman and Chief Executive Officer.
30. Attached hereto as **Exhibit 28** is a true and correct copy of an article dated December 5, 2012 by Sam Gustin of Time titled, *“Fugitive Software Guru John McAfee Arrested in Guatemala, Faces Expulsion Back to Belize,”* in which it states, “McAfee founded the anti-virus computer software firm that bears his name in 1987, and his net worth is estimated to have been \$100 million at its peak. McAfee sold his stake in the company in 1994 and hasn’t been involved since. In 2010, McAfee Inc. was acquired by chip giant Intel for \$7.7 billion.”
31. Attached hereto as **Exhibit 29** is a true and correct copy of an article dated December 20, 2012 by David Goldman of CNN Business titled, *“McAfee won’t change its name because of John McAfee.”* In the article, it states, “John McAfee sold his security business in 1994 and has had nothing to do with the company since.”
32. Attached hereto as **Exhibit 30** is a true and correct copy of an article dated January 7, 2014 by Jose Pagliery of CNN Business titled, *“Intel renames its McAfee security brand.”* In the article it states, “Intel (INTC), which bought McAfee in 2010, will rebrand its subsidiary as Intel Security.”

33. Attached hereto as **Exhibit 31** is a true and correct copy of an article dated January 8, 2014, by Jose Pagliery of CNN Business titled, “*John McAfee enjoying new life in Canada.*” In the article it states, “Intel, the tech company that bought McAfee’s antivirus software company in 2010, decided to rebrand it Intel Security earlier this week.”
34. Attached hereto as **Exhibit 32** is a true and correct copy of an article dated November 17, 2014, by CBS News titled, “*Security Industry Needs ‘Passion and Expertise,’ Says San Francisco VP,*” in which it states that in an interview with CPO of Intel Security Michelle Dennedy, Dennedy said, “McAfee is now part of Intel Security.”
35. Attached hereto as **Exhibit 33** is a true and correct copy of an article dated January 7, 2014, by Jim Finkle of Thompson Reuters titled, “*John McAfee says glad Intel dropping his name from security software.*” In the article it states, “John McAfee, the flamboyant millionaire who founded the eponymous anti-viral software pioneer that Intel Corp bought for \$7.7 billion, says he is glad that the chipmaker plans to drop his name from the product.”
36. Attached hereto as **Exhibit 34** is a true and correct copy of an article dated September 8, 2015, by VentureBeat titled, “*John McAfee is seriously running for president in 2016.*” In the article it states, “John McAfee, the provocative millionaire founder of antivirus software company McAfee Software, which Intel bought for \$7.68 billion in 2010, today filed a document to officially designate himself a candidate in next year’s U.S. presidential election.”
37. Attached hereto as **Exhibit 35** is a true and correct copy of an article dated September 13, 2015, by DH Kass of Channel Futures titled, “*Believe it or Not: McAfee Anti-Virus Founder in U.S. Presidential Run.*” In the article it states, “questions about McAfee’s

eccentricity have been raised at times since he disassociated himself with the company he founded, which Intel subsequently acquired in 2010 for some \$7.6 billion.”

38. Attached hereto as **Exhibit 36** is a true and correct copy of an article dated October 2, 2015, by Steve Morgan of Cybersecurity Ventures titled, “*Cybersecurity Legend And Presidential Candidate John McAfee Takes On The Republican Frontrunners.*” In the article it states, “McAfee has spent decades building up a large following from the tech industry – and the media who follow his personal antics have turned him into a celebrity. Millions of people know his name.” The article additionally states, “[f]irst and foremost, John McAfee is a cybersecurity legend.” The article described McAfee as “the pioneer and founder of the 80’s namesake company he founded – McAfee Software – which became the leading antivirus company and ultimately sold to Intel Corporation (while still bearing his name) for \$7.7 billion in 2010.” The article goes on to state, “In the past month, McAfee ha[d] been featured or interviewed by major media outlets including BBC, CNBC, CNET, CNNMoney, Fortune, FOX News, Inc., NBC News, New York Daily News, Time, Wired, USA Today, and others.”
39. Attached hereto as **Exhibit 37** is a true and correct copy of an article dated December 30, 2015, by David Goldman of CNN Business titled, “*John McAfee says his new security product is a ‘f---ing game changer.’*” In the article, it states, “McAfee, who no longer has ties to his namesake antivirus software that he founded in 1987, has had a turbulent past few years.”
40. Attached hereto as **Exhibit 38** is a true and correct copy of an article dated April 21, 2016, by Steve Morgan of Cybersecurity Ventures titled, “*Intel’s CEO Can’t Seem to Shake John McAfee’s Name.*” In the article it states, “John McAfee – founder of his namesake

anti-virus company which ultimately sold to Intel in 2010 for more than \$7.6 billion – responded by telling BBC News ‘I am now everlastingly grateful to Intel for freeing me from this terrible association with the worst software on the planet,’” as well as “They may have learned too that John McAfee has a reputation as a prankster – which comes along with his legendary status in the cybersecurity field.”

41. Attached hereto as **Exhibit 39** is a true and correct copy of an article dated May 9, 2016, by Jing Cao of Bloomberg titled, “*McAfee Named CEO of Gaming Company in Shift to Cybersecurity.*” The article states, “John McAfee has been named the chairman and chief executive officer of MGT Capital Investments Inc., marking a return to public markets about five years after the eponymous anti-virus company he founded was sold to Intel Corp. for \$7.68 billion.”
42. Attached hereto as **Exhibit 40** is a true and correct copy of an article dated September 9, 2015, by Spike TV PRNewswire titled, “*‘The John McAfee Project’ To Debut On Spike In April 2016.*” In the article it states, “Viewed by some as the godfather of online security and by others as the master manipulator of fear, McAfee announces earlier today he is running for President of the United States,” stating immediately after that “McAfee continues to be a prophet of internet protection. In 2010, the company he founded (McAfee Associates) was sold to Intel for an incredible \$7.8 billion and four years later they announced they would be changing their name from McAfee to Intel Security.”
43. Attached hereto as **Exhibit 41** is a true and correct copy of an article dated May 19, 2016, by Paul R. La Monica of CNN Business titled, “*John McAfee has pushed this stock up 700%!.*” In the article it states, “It’s been a long road back to Wall Street for the 70-year-old McAfee, who left his eponymous firm in 1994. It was sold to Intel in 2010 for about

\$7.6 billion.”

44. Attached hereto as **Exhibit 42** is a true and correct copy of an article dated June 17, 2016, by Seth Archer of Business Insider titled, “*JOHN MCAFEE: Intel buying McAfee never made sense*,” in which it states, “Citing unnamed sources, the Financial Times reported that the chipmaker is looking at spinning off McAfee, which it bought in 2010 for \$7.7 billion and incorporated into its Intel Security division.”
45. Attached hereto as **Exhibit 43** is a true and correct copy of an article dated September 7, 2016, by Michael J. de la Merced of The New York Times titled, “*Intel Sells Majority Stake in McAfee Security Unit to TPG*,” in which it states, “Intel, which bough McAfee for \$7.7 billion six years ago, said on Wednesday...”
46. Attached hereto as **Exhibit 44** is a true and correct copy of an article dated September 7, 2016, by Sarah Kuranda of CRN titled, “*Intel Security Spins Off To Private Equity In \$4.2B Deal*.” In the article it states, “The deal spins out Intel Security from parent company Intel, creating a stand-alone security vendor and essentially undoing the company’s \$7.7 billion acquisition of McAfee in 2010.”
47. Attached hereto as **Exhibit 45** is a true and correct copy of an article dated September 7, 2016, by Dana Mattioli of The Wall Street Journal titled, “*Intel Agrees to Sell Majority Stake in Security Unit to TPG*.” The article states, “Intel bought McAfee for \$7.7 billion in 2011 as the chip giant sought to diversify.”
48. Attached hereto as **Exhibit 46** is a true and correct copy of an article dated September 7, 2016, by Johns Mannes of TechCrunch titled, “*Intel spins out Intel Security with TPG to form new McAfee valued at \$4.2B*.” The article states, “Intel’s security unit originated from its acquisition of McAfee. The \$7.68 billion transaction closed in 2011 and in the

years following, analysts have been keen to pressure Intel to sell the company back off.”

49. Attached hereto as **Exhibit 47** is a true and correct copy of an article dated September 15, 2016, by Paul R. La Monica of CNN Business titled, “*John McAfee is back ... and fighting Intel and CBS.*” In the article it states, “Yes, the same McAfee whose namesake antivirus firm was sold to Intel, then moved to Belize, and became embroiled in a bizarre murder mystery.”
50. Attached hereto as **Exhibit 48** is a true and correct copy of an article dated December 17, 2018, by Yahoo! titled, “*Intel to Reportedly Offload McAfee Business: Key Takeaways.*” The article states, “Intel had acquired the antivirus software maker back in 2010 with a view to secure its chips and improve their threat detection power. Notably, Intel concluded the acquisition of McAfee for approximately \$7.68 billion in cash (or \$48 per share).”
51. Attached hereto as **Exhibit 49** is a true and correct copy of a Form 4 filed with the SEC by Robert Ladd on May 31, 2016. This document is available to the public via the SEC’s website.
52. Attached hereto as **Exhibit 50** is a true and correct copy of an excerpt of the deposition transcript of Robert Ladd, dated October 15, 2020.
53. Attached hereto as **Exhibit 51** is a true and correct copy of an email dated May 31, 2016, from Robert Ladd to Joan Wu.
54. Attached hereto as **Exhibit 52** is a true and correct copy of the engagement letter between Jay Kaplowitz of Sichenzia Ross Friedman Ference LLP and Robert Ladd, dated December 4, 2015.

55. Attached hereto as **Exhibit 53** is a true and correct copy of an article dated April 11, 2017, by Pomerantz LLP titled, “Pomerantz LLP Appointed Lead Counsel in MGT Capital Investments, Inc. Sec. Litig.”
56. Attached hereto as **Exhibit 54** is a true and correct copy of an article dated May 9, 2016, by Robert Hackett titled, “*John McAfee Is Back in Business.*”

I declare under penalty of perjury that the foregoing is true and correct.

Dated the 21st day of November 2022.

/s/ Adam Ford

Adam Ford

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Attorney for Defendant Robert Ladd